

REMARKS

The Office Action mailed April 10, 2008 has been carefully considered. Within the Office Action Claims 1-12 have been rejected. The Applicants have amended Claims 1 and 2. In addition, the Applicants have added new Claims 13-16. Reconsideration in view of the following remarks is respectfully requested.

Rejection under 35 U.S.C. § 103

Claims 1-12 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 4,800,242 to Yin in view of International Publication No. WO 00/05735 to Sfondrini et al. (hereinafter “Sfondrini”). This rejection is respectfully traversed.

Specifically, the Office Action contends that the elements in the claims are disclosed in Yin except that Yin does not teach a motorized actuation means. The Office Action further contends that Sfondrini teaches a motorized actuation means and that it would be obvious to one having ordinary skill in the art at the time of the invention to incorporate Sfondrini into Yin in order to reach the claimed subject matter. The Applicants respectfully disagree for the reasons set forth below.

In determining obviousness four factual inquiries must be looked into in regards to determining obviousness. These are determining the scope and content of the prior art; ascertaining the differences between the prior art and the claims in issue; resolving the level of ordinary skill in the pertinent art; and evaluating evidence of secondary consideration. Graham v. John Deere, 383 U.S. 1 (1966); KSR Int’l Co. v. Teleflex, Inc., No 04-1350 (U.S. Apr. 30, 2007) (“ Often, it will be necessary . . . to look into related teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to

determine whether there was an **apparent reason** to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis **should be made explicit.**") (emphasis added).

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. Stratoflex, Inc. v. Aeroquip Corp., 713 F.2d 1530 (Fed. Cir. 1983). Thus, when considering the whole prior art reference its entirety, portions that would lead away from the claimed invention must be considered. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983), See M.P.E.P. 2141.02. Thus, it is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731 (Fed. Cir. 1983).

Yin discloses a spring-powered drive assembly for opening and closing a switch such as one forming part of a high-voltage switch gear apparatus. The apparatus consists of a drive arm 12 which is moveable between two "extreme positions" of vertical (Figure 1) and horizontal (Figure 2). The arm 12 is coupled to a **single** spring 28 through a means 45 via a **stationary** drive rod 44, whereby the spring 28, drive rod 44 and means 45 are positioned within a moveable housing 28. When the arm 12 is to be moved from the open to closed position, the housing 28 itself moves in a desired direction 36 or 38 while the means 45 and drive rod 44 initially remain stationary. The movement of the housing 28 then causes the opposing portions 28A, 28B of the spring 28 to respectively compress and expand. This results in a cumulative directional force applied to the means 45 which then transfers to the rod 44 to push or pull the drive arm 12 to rotate from closed position to the open position, or vice versa.

One skilled in the art combining Yin with Sfondrini would not reach each and every element/limitation in the claims as required to establish a *prima facie* case of obviousness. First

of all, Yin does not include a motor which initiates opening and closing operation in which the motor is connected to the actuation means, as claimed in Claim 1. Instead, Yin discloses using a handle to manually actuate the handle 68 to allow upward/downward movement of the housing 30. Additionally, Yin does not disclose two springs, as specifically recited in Claim 1. Instead, Yin expressly teaches a **single** spring 28 having two portions 28A and 28B (Yin, Col. 2, Lines 62-66) (emphasis added). Moreover, Yin does not disclose actuation means for transforming the output displacement of the motor into displacement of said contact, as recited in Claim 1. Instead, as specifically stated in Yin, the housing 30 itself is moved in a desired direction to cause a cumulative effect on the upper and lower portions of the spring to force the drive rod 44 to move the arm 12 toward the desired position. In other words, one skilled in the art reviewing Yin would simply not realize the use of a motor in Yin's system, not to mention that it is the housing 30 which causes the actuation of the drive arm 12. Furthermore, there is absolutely no teaching or suggestion in either reference that the spring urges the set of jointed elements toward a closed position and then urges that set toward the open position after the set had moved past the open dead centre position, as recited in Claim 1. Therefore, one skilled in the art combining Yin with Sfondrini would not come to a combination which teaches or suggests each and every element/limitation in Claim 1. Accordingly, Claim 1 is patentable over the combination of Yin and Sfondrini.

Claims 2-12 have also been rejected in light of Yin and Sfondrini. However, Claims 2-12 are dependent on Independent Claim 1. As stated above, Claim 1 is allowable over Yin and Sfondrini. Accordingly, Claims 2-12 are allowable for being dependent on an allowable base claim.

New Claims

The Applicants have added new Claims 13-18 to the present application. The Applicants believe that New claims are fully supported by the specification and no new matter has been added. Applicants would like to note that the new independent Claim 13 is allowable over the cited references as it recites a motor, two springs, and stationary spring abutments (as opposed to the moveable ends 30, 32 of the housing). Allowance of new Claims 13-18 is respectfully requested.

Conclusion

It is believed that this reply places the above-identified patent application into condition for allowance. Early favorable consideration of this reply is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,
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Dated: July 10, 2008

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